

STATE PERSONNEL BOARD, STATE OF COLORADO

Case No. 96B043

INITIAL DECISION OF THE ADMINISTRATIVE LAW JUDGE

JOE MARTINEZ, JR.,

Complainant,

vs.

DEPARTMENT

OF

REVENUE,

Respondent.

Hearing was held on September 5, 1996 before Administrative Law Judge Robert W. Thompson, Jr. Respondent appeared through Don Burton and was represented by Assistant Attorney General Mark Gerganoff. Complainant did not appear in person or through a representative.

Respondent called two witnesses: Don Burton, Program Administrator, and Sandra Dumancas, Office Manager. Respondent's Exhibit 1 was admitted into evidence.

MATTER APPEALED

Complainant alleged in his appeal that he was disciplinarily terminated from his employment with respondent.

ISSUE

Whether complainant voluntarily resigned his position.

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FINDINGS OF FACT

1. Complainant Joe Martinez, Jr. was employed by respondent Department of Revenue, Motor Vehicle Division, as an Administrative Assistant II at the West Mississippi office in Denver.
2. On April 21, 1995, complainant voluntarily tendered his written resignation to Sandra Dumancas, respondent's office manager, effective April 30, 1995. (Exhibit 1.)
3. Complainant verbally expressed to Dumancas his intent to resign his position.
4. Respondent accepted complainant's resignation.

DISCUSSION

Respondent submits that complainant voluntarily resigned his position with the Motor Vehicle Division and that, consequently, there is no appealable action before the Board.

The evidence is convincing that complainant was not, in fact, dismissed. He voluntarily resigned. There is no evidence in this record from which to conclude that any action by respondent was arbitrary, capricious or contrary to rule or law.

The administrative law judge will consider reopening this case for the further presentation of evidence upon a showing by complainant of good cause for his failure to appear at hearing through a timely filed petition for reconsideration. Notice is taken that complainant did not file a prehearing statement.

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CONCLUSION OF LAW

Complainant voluntarily resigned his position.

ORDER

Complainant's appeal is dismissed with prejudice.

DATED this _____ day of
September, 1996, at
Denver, Colorado.

Robert W. Thompson, Jr.
Administrative Law Judge

CERTIFICATE OF MAILING

This is to certify that on the ____ day of September, 1996, I placed true copies of the foregoing **INITIAL DECISION OF THE ADMINISTRATIVE LAW JUDGE** in the United States mail, postage prepaid, addressed as follows:

Joe Martinez, Jr.
202 Short Street
Ordway, CO 81063

Joe Martinez, Jr.
4580 West 45th Avenue
Denver, CO 80212

and in the interagency mail, addressed as follows:

Mark W. Gerganoff
Assistant Attorney General
State Services Section

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1525 Sherman Street, 5th Floor
Denver, CO 80203

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